

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

**LAGUARDIA ASSOCIATES LLP, D/B/A/  
CROWNE PLAZA LAGUARDIA**

**and**

**Case No. 29-CA-26660**

**NEW YORK HOTEL AND MOTEL TRADES COUNCIL**

***Tabitha Tyle, Esq., Brooklyn, NY,  
for the General Counsel.***

***Barry Saltzman, Esq., (Pryor, Cashman, Sherman & Flynn, Esqs.),  
New York, NY, for the Union.***

***Ira Berg, Esq., (Wiseman & Hoffman, Esqs.),  
New York, NY, for the Respondent.***

**DECISION**

**Statement of the Case**

**STEVEN DAVIS, Administrative Law Judge:** Based upon a charge filed on November 30, 2004 by New York Hotel and Motel Trades Council (Union), a complaint was issued on December 29, 2004 against LaGuardia Associates LLP, d/b/a Crowne Plaza LaGuardia (Respondent).

The complaint alleges essentially that the Respondent violated Section 8(a)(5) and (1) of the Act by refusing the Union's request to bargain following the Union's certification. The Respondent's answer admits that the Union was certified as the exclusive collective-bargaining representative of the unit alleged in the complaint, and further admits refusing the Union's demand for bargaining in order to test the Board's certification of the Union as the exclusive representative of the employees in the unit. The answer denies that the Union has been the exclusive representative of the unit for the purposes of collective-bargaining, and also denies that paragraph of the complaint which alleges that by refusing to bargain with the Union, it violated the Act.

On February 1, 2005, a hearing was held before me in Brooklyn, New York. At the hearing, the counsel for the General Counsel made a motion for summary judgment. The Respondent had no objection to the motion, other than as stated in its answer. In view of the Respondent's admissions to the material allegations of the complaint, I granted the motion. The parties waived the filing of post-hearing briefs.

Upon the evidence presented in this proceeding I make the following:

**Findings of Fact**

**Jurisdiction**

The Respondent, a domestic corporation having an office and place of business at 104-04 Ditmars Boulevard, East Elmhurst, New York, has been engaged in the operation of a hotel.

During the past year, the Respondent derived gross revenues from its operations in excess of \$1,000,000, and during the same period, it purchased and received at its Elmhurst, New York, facility, goods, materials, and supplies valued in excess of \$5,000 directly from suppliers located outside New York State.

The Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. The Respondent also admits and I find that that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## **II. The Alleged Unfair Labor Practices**

### **A. The Certification**

Following an election, the Union was certified on September 29, 2004, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time Engineering, Housekeeping, Banquet, Front Desk, Kitchen, Restaurant, Health Club, Lounge, and PBX employees, employed by the Employer at its facility located at 104-04 Ditmars Boulevard, East Elmhurst, New York, excluding all Accounting and Human Resources Department employees, office clerical employees, guards, managers, and supervisors as defined in Section 2(11) of the Act.

The Respondent admits that the above unit is an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act, and I find that the Union is and continues to be the exclusive representative under Section 9(a) of the Act.

### **B. The Refusal to Bargain**

The Respondent admits that in or around October, 2004, the Union demanded that the Respondent bargain with it and commence negotiations for a first contract. The Respondent also admits that on October 21, 2004, the Respondent, by letter, informed the Union that it would not commence bargaining because it was determined to test the Board's certification of the Union as the representative of the employees in the unit.

I find that the Respondent's refusal to bargain and commence negotiations with the Union constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

### **Conclusion of Law**

By failing and refusing on and after October 21, 2004, to bargain and commence negotiations with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

### **Remedy**

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, I shall order it to cease and desist, to bargain on request with the Union, and, if an understanding is reached, to embody the understanding in a signed agreement.

To ensure that the employees are accorded the services of their selected bargaining

agent for the period provided by the law, I shall construe the initial period of the certification as beginning on the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>1</sup>

## ORDER

The Respondent, LaGuardia Associates LLP, d/b/a Crowne Plaza LaGuardia, East Elmhurst, New York, its officers, agents, successors, and assigns, shall

### 1. Cease and desist from

(a) Refusing to recognize and bargain collectively with New York Hotel and Motel Trades Council as the exclusive collective-bargaining representative of the employees in the unit described below.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

### 2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the New York Hotel and Motel Trades Council as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time Engineering, Housekeeping, Banquet, Front Desk, Kitchen, Restaurant, Health Club, Lounge, and PBX employees, employed by the Employer at its facility at 104-04 Ditmars Boulevard, East Elmhurst, New York, excluding all Accounting and Human Resources Department employees, office clerical employees, guards, managers, and supervisors as defined in Section 2(11) of the Act.

(b) Within 14 days after service by the Region, post at its facility in East Elmhurst, New York, copies of the attached notice marked "Appendix."<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are

<sup>1</sup> If no exceptions are filed as proved by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

<sup>2</sup> If this Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 21, 2004.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C.

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Steven Davis  
Administrative Law Judge

**APPENDIX  
NOTICE TO EMPLOYEES  
Posted by Order of the  
National Labor Relations Board  
An Agency of the United States government**

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain collectively with New York Hotel and Motel Trades Council as the exclusive collective-bargaining representative of the employees in the following appropriate collective-bargaining unit:

All full-time and regular part-time Engineering, Housekeeping, Banquet, Front Desk, Kitchen, Restaurant, Health Club, Lounge, and PBX employees, employed by the Employer at its facility at 104-04 Ditmars Boulevard, East Elmhurst, New York, excluding all Accounting and Human Resources Department employees, office clerical employees, guards, managers, and supervisors as defined in Section 2(11) of the Act.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed to them by Section 7 of the Act.

WE WILL, on request, bargain with the New York Hotel and Motel Trades Council as the exclusive representative of the employees in the above-described appropriate unit and, if an understanding is reached, WE WILL embody the understanding in a signed agreement.

LAGUARDIA ASSOCIATES LLP, D/B/A/ CROWNE PLAZA LAGUARDIA  
(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: [www.nlr.gov](http://www.nlr.gov).

One MetroTech Center (North), Jay Street and Myrtle Avenue, 10th Floor, Brooklyn, NY 11201-4201  
(718) 330-7713, Hours: 9 a.m. to 5:30 p.m.

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (718) 330-2862.

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